Agency(ies) Charge No(s): CHARGE OF DISCRIMINATION Charge Presented To: This form is affected by the Privacy Act of 1974. See enclosed Privacy Act **FEPA** Statement and other information before completing this form. **EEOC** and EEOC State or local Agency, if any Name (indicate Mr., Ms., Mrs.) Home Phone (Incl. Area Code) Date of Birth Mr. Tom Lugo on behalf of myself and all others similarly situated (216) 215-5093 8/14/1972 City. State and ZIP Code 2575 Twelve Oaks Cir. Medina, Ohio 44256 Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.) No. Employees, Members Phone No. (Include Area Code) City of Cleveland (Division of Fire) 100+ Street Address City, State and ZIP Code 601 Lakeside Ave. Cleveland, OH 44114 Name No. Employees, Members Phone No. (Include Area Code) Street Address City, State and ZIP Code DISCRIMINATION BASED ON (Check appropriate box(es).) DATE(S) DISCRIMINATION TOOK PLACE Earliest RACE COLOR SEX RELIGION **NATIONAL ORIGIN** Feb. 2, 2018 RETALIATION DISABILITY **GENETIC INFORMATION** OTHER (Specify) CONTINUING ACTION THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): I am a Hispanic male, and have been employed by Respondent's Division of Fire since 1997. Currently I hold the rank of Fire Lieutenant. In 2017, Respondent administered, and I sat for, a promotional examination for the rank of Captain in the Fire Department. On February 2, 2018, Respondent released a ranked list of all 52 candidates who had passed the Captain's exam. Respondent will utilize this list to make promotions to the Captain rank for a 2-year period (until February 2, 2020). The list evidences that the promotional exam resulted in a discriminatory disparate impact against Hispanic individuals, including myself, who seek promotion. RECEIVED OCT 25 2018 **CONTINUED ON NEXT PAGE EEOC-CLFO** I want this charge filed with both the EEOC and the State or local Agency, if any. I NOTARY - When necessary for State and Local Agency Requirements will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. I swear or affirm that I have read the above charge and that it is true to I declare under penalty of perjury that the above is true and correct. the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year) Charging Party Signature

Case: 1:20-cv-00050-DAR Doc #: 33-17 Filed: 08/20/21 1 of 6. PageID #: 1712

**EXHIBIT** 

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| CHARC  | Case: 1:20-cv-00050-DAR Doc #: 33-17 Filed: 08/20/21 2 of 6. PageID #: 1713   |  |   |  |  |  |   |
|--|---|--|---|--|--|--|---|
| CHARGE OF DISCRIMINATION Charge Presented To: Agency(ies) Charge No(s):  |   |  |   |  |  |  |   |
|  | This form is affected by the Privacy Act of 1974. See enclosed Privacy Act  |  |   |  |  |  |   |
| Statement and other information before completing this form.   |   |  |   |  | X EEOC   |  |   |
|  |   | <u> </u>   | N EEOC  | ,  |  |  |   |
| and EEOC   |   |  |   |  |  |  |   |
| State or local Agency, if any  THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):   |   |  |   |  |  |  |   |
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| OUTIMOED I NOM I REVIOUS I AGE 2 OF 27   |   |  |   |  |  |  |   |
| 73 individuals took al   |   |  |   |  |  |  |   |
|  | , took the e  | ntire exam   | , passed the  | exam, and  | how the pa   | ssage rat  | tes for Hispanics violated  |
| the four-fifths rule:  |   |  |   |  |  |  |   |
| RACE OR  | тоок  | %  | PASSED  | %  | PASS   |  | FOUR-FIFTHS   |
| NATIONAL   | ENTIRE  | 70   | EXAM  | 70   | RATE   |  | RULE TEST   |
| ORIGIN   | EXAM  |  | LAAM  |  | 10012  |  | ROLL ILOI   |
| Caucasian  | 53  | 72.60%   | 36  | 49.32%   | 67.92%   |  |   |
| African-American   | 14  | 19.18%   | 13  | 17.81%   | 92.86%   |  |   |
| Hispanic   | 6   | 8.22%  | 3   | 4.11%  | 50.00%   | 53.859   | % vs. African-Americans   |
| '  |   |  |   |  |  | 73.  | .61% vs. Caucasians   |
|  |   |  |   |  |  |  | (FAIL)  |
| TOTAL  | 73  |  | 52  |  |  |  |   |
| Beenves Hisponies s  | acced the e   | warm at a  | nto of loop the   | n 909/ wh  |  | ad to the  | nace rate of African  |
| Because Hispanics p  |   |  |   |  |  |  | ed on our race and/or   |
| national origin. Two r   |   |  |   |  |  |  |   |
|  |   |  |   |  |  |  | dividuals on or about July  |
| 28, 2018. The selecti  | ons to date   | also demo  | onstrate an ad  | verse impa   | act against  | Hispanics  | s:  |
| DAGE OD  | ppoug   | riono I  | SELECTION   |  | MD EIETH   |  |   |
| RACE OR<br>NATIONAL  | PROMO   | HONS I   |   |  |  |  |   |
|  | E .   |  |   |  | UR-FIFTH   |  | BECEIVED  |
| ORIGIN   |   |  | RATE  |  | ULE TEST   |  | RECEIVED  |
| ORIGIN<br>Caucasian  | 8   |  | RATE  |  |  |  |   |
| Caucasian  | 8   |  | 15.09%  |  |  |  | OCT 25 2018   |
| Caucasian<br>African-American  | 8 6   |  | 15.09%<br>42.86%  | R  | ULE TEST   |  |   |
| Caucasian  | 6   |  | 15.09%  | R  |  |  | OCT 25 2018   |
| Caucasian African-American Hispanic  | 6   |  | 15.09%<br>42.86%  | R  | ULE TEST   |  | OCT 25 2018   |
| Caucasian African-American Hispanic TOTAL Respondent has expense   | 6<br>0<br>14<br>ressed a de   | sire to inc  | 15.09%<br>42.86%<br>0.00%   | 0.   | 00% (FAIL  | officer ra   | OCT 25 2018  EEOC-CLFO  Inkings within the Division   |
| Caucasian African-American Hispanic TOTAL  Respondent has explored fire. I believe that  | 6<br>0<br>14<br>ressed a de<br>Responden  | sire to inc  | 15.09%<br>42.86%<br>0.00%<br>rease minority<br>ly administere   | 0.   | 00% (FAIL  | officer ra   | OCT 25 2018  EEOC-CLFO  Inkings within the Division in a manner that would  |
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| EEOC Form 5 (11/09)  |                       |   |                       |                                     |  |
|--|-----------------------|---|-----------------------|-------------------------------------|--|
| CHARGE OF DISCRIMINATION   | Charge                | Presented To:   | Agenc                 | y(ies) Charge No(s):                |  |
| This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.  | X                     | FEPA 532  | - 20                  | 19-00138                            |  |
|  |                       |   |                       | and EEOC                            |  |
| State or local Agen  | cy, if eny            |   |                       |                                     |  |
| Name (indicate Mr., Ms., Mrs.)   |                       | Home Phone (Incl. Ar  |                       | Date of Birth                       |  |
| Mr. Tom Lugo on behalf of myself and all others similarly situat   |                       | (216) 215-5   | 093                   | 8/14/1972                           |  |
| Greet Audi ess   | and ZIP Code          | -   |                       |                                     |  |
| 2010 1110110 02110 0111  | a, Ohio 442           |   |                       |                                     |  |
| Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Discriminated Against Me or Others. (If more than two, list under PARTICULARS   | Committee, or below.) | State or Local Govern   |                       |                                     |  |
| Name   |                       | No. Employees, Member   | Phon                  | ne No. (Include Area Code)          |  |
| City of Cleveland (Division of Fire)   |                       | 100+  |                       |                                     |  |
|  | and 21P Code          |   |                       |                                     |  |
| 601 Lakeside Ave. Clevela  | ınd, OH 441           | 14  |                       |                                     |  |
| Name   |                       | No. Employees, Member   | s Phor                | ne No. (Include Area Code)          |  |
| Street Address City, State   | and ZIP Code          | 1   |                       |                                     |  |
| Subst Address  |                       |   |                       |                                     |  |
| DISCRIMINATION BASED ON (Check appropriate box(es).)   |                       | DATE(S) DE  |                       | TION TOOK PLACE                     |  |
| Y RACE COLOR SEX RELIGION  | NATIONAL ORK          |   |                       | Landak                              |  |
|  |                       |   | 2010                  |                                     |  |
| RETALIATION AGE DISABILITY GENETIC INFORMATION  OTHER (Specify)  X CONTINUING ACTION   |                       |   |                       |                                     |  |
| OTHER (Special)  |                       |   |                       |                                     |  |
| THE PARTICULARS ARE (if additional paper is needed, attach extra sheet(s)):  |                       |   |                       |                                     |  |
| I am a Hispanic male, and have been employed by Respondent's Division of Fire since 1997. Currently I hold the rank of Fire Lieutenant. In 2017, Respondent administered, and I sat for, a promotional examination for the rank of Captain in the Fire Department. On February 2, 2018, Respondent released a ranked list of all 52 candidates who had passed the Captain's exam. Respondent will utilize this list to make promotions to the Captain rank for a 2-year period (until February 2, 2020). The list evidences that the promotional exam resulted in a discriminatory disparate impact against Hispanic individuals, including myself, who seek |                       |   |                       |                                     |  |
| promotion.   |                       | RE  | CE                    | IVED                                |  |
| CONTINUED ON NEXT PAGE   |                       | 0   | CT 17                 | ' 2018                              |  |
|  |                       | EE  | OC-                   | CLFO                                |  |
| I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their  |                       | n necessary for State and                                       |                       |                                     |  |
| I declare under penalty of perjury that the above is true and correct.   | the best of my        | m that I have read the<br>knowledge, information<br>COMPLAINANT | above change and beli | arge and that it is true to<br>ief. |  |
| 10-17-18 Wh  | SUBSCRIBED A          | ND SWORN TO BEFOR   | E ME THIS             | DATE                                |  |
| Date Charging Party Signature  |                       |   |                       |                                     |  |

| CHARGE OF DISCRIMINATION  | Charge Presented To: Agency(ies) Charge No(s): |
|---|--|
| This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form. | FEPA 532-2019-00138                            |
|   | and EEOC                                       |
| State or local Agency, if a   | пу   |

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

## **CONTINUED FROM PREVIOUS PAGE (PAGE 2 OF 2)**

73 individuals took all parts of the Captain's exam. The following table shows how many individuals, by race, took the entire exam, passed the exam, and how the passage rates for Hispanics violated the four-fifths rule:

| RACE             | TOOK<br>ENTIRE<br>EXAM | %      | PASSED<br>EXAM | %      | PASS<br>RATE | FOUR-FIFTHS<br>RULE TEST  |
|------------------|------------------------|--------|----------------|--------|--------------|---|
| Caucasian        | 53                     | 72.60% | 36             | 49.32% | 67.92%       |   |
| African-American | 14                     | 19.18% | 13             | 17.81% | 92.86%       |   |
| Hispanic         | 6                      | 8.22%  | 3              | 4.11%  | 50.00%       | 53.85% vs. African-Americans<br>73.61% vs. Caucasians<br>(FAIL) |
| TOTAL            | 73                     |        | 52             |        |              |   |

Because Hispanics passed the exam at a rate of less than 80% when compared to the pass rate of African-Americans, the Captain's exam had a disparate impact on me and other Hispanics based on our race.

Two rounds of promotions have occurred off of the list to date. Respondent promoted six (6) individuals to Captain on or about May 4, 2018, and then promoted another eight (8) individuals on or about July 28, 2018. The selections to date also demonstrate an adverse impact against Hispanics:

| RACE             | PROMOTIONS | SELECTION<br>RATE | FOUR-FIFTHS<br>RULE TEST |
|------------------|------------|-------------------|--------------------------|
| Caucasian        | 8          | 15.09%            |                          |
| African-American | 6          | 42.86%            |                          |
| Hispanic         | 0          | 0.00%             | 0.00% (FAIL)             |
| TOTAL            | 14         |                   |                          |

Respondent has expressed a desire to increase minority representation in the officer rankings within the Division of Fire. I believe that Respondent unlawfully administered the promotional examination in a manner that would achieve its desired result of having a list of disproportionately high-ranked African-American candidates to select for promotion over the two-year duration that the promotional list will be viable.

I believe that I, along with others who are similarly situated, have been discriminated against in violation of Title VII of the Civil Rights Act of 1964, as amended. This discrimination is a result of disparate impact and/or intentional discrimination in the administration of the Captain's promotional exam.

| I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their | NOTARY – When necessary for State and Local Agency Requirements            |
|---|--|
| procedures.   | I swear or affirm that I have read the above charge and that it is true to |
| I declare under penalty of perjury that the above is true and correct.  | the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT |
| 10-17-18 2 d  | SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)             |
| Date Charging Party Signature   |  |

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EEOC-1060F00041

| EEOC Form 5 (11/09)  |                                    |  |  |
|--|------------------------------------|--|--|
| CHARGE OF DISCRIMINATION  This form is affected by the Privacy Act of 1974. See enclosed Privacy Act  Statement and other information before completing this form.   |                                    | Presented To: Ag                                     | gency(les) Charge No(s):                     |
|  |                                    |  | and EEOC                                     |
| Name (Indicate Mr., Ms., Mrs.)  State or local Age   | ency, if any                       |  |  |
| John D See on behalf of myself and all others similarly situated   |                                    | Home Phone (Incl. Area Co                            |  |
| City State on  | nd 7ID Code                        | (216)533-8216  | 2/18/1972                                    |
| 12918 Old State Pond   | rg,Ohio 4404                       | 6  |  |
| Named is the Employer, Labor Organization, Employment Agency, Apprenticeship of Discriminated Against Me or Others. (If more than two, list under PARTICIII ARE I  |                                    | te or Local Government Age                           | ency That I Believe                          |
| City of Cleveland (Division of Fire)   |                                    | No. Employees, Members                               | Phone No. (Include Area Code                 |
| Street Address   |                                    | 100+   |  |
| 601 Lakeside Ave.  | nd ZIP Code                        | NIE              | www.remiennen                                |
| Cieveian   | nd, OH 44114                       |  |  |
| Name   |                                    | No. Employees, Members                               | Phone No. (Include Area Code                 |
| Street Address City, State and   | d ZIP Code                         |  |  |
| THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):  I am a Hispanic male, and have been employed by Respondent rank of Fire Lieutenant. In 2017, Respondent administered, of Captain in the Fire Department. On February 2, 2018, Respondent administered.  | and I sat for.                     | n of Fire since 1993                                 | ination for the rank                         |
| who had passed the Captain's exam. Respondent will utilize 2-year period (until February 2, 2020). The list evidences the disparate impact against Hispanic individuals, including mys   | e this list to me<br>at the promot | ake promotions to the ional exam resulted promotion. | he Captain rank for a<br>in a discriminatory |
| CONTINUED ON NEXT PAGE   |                                    |  | CT 17 2018<br>OC-CLFO                        |
| vant this charge filed with both the EEOC and the State or local Agency, if any. I will lyise the agencies if I change my address or phone number and I will cooperate fully the them in the processing of my shares in t | NOTARY - When                      | necessary for State and Local                        | Agency Requirements                          |
| th them in the processing of my charge in accordance with their procedures.  declare under penalty of perjury that the above is true and correct.  | best of my know<br>SIGNATURE OF C  | ledge, information and beli-                         |  |
| 10/17/18 Charging Party Signature  Charging Party Signature  | (month, day, year)                 |  | HIS DATE                                     |

€EOC Form 5 (11/09)

## CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

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Agency(ies) Charge No(s):

EEOC 532-2019-00141

and EEOC

State or local Agency, if any

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

## **CONTINUED FROM PREVIOUS PAGE (PAGE 2 OF 2)**

73 individuals took all parts of the Captain's exam. The following table shows how many individuals, by race, took the entire exam, passed the exam, and how the passage rates for Hispanics violated the four-fifths rule:

| RACE             | TOOK<br>ENTIRE<br>EXAM | %      | PASSED | %      | PASS<br>RATE | FOUR-FIFTHS<br>RULE TEST  |
|------------------|------------------------|--------|--------|--------|--------------|---|
| Caucasian        | 53                     | 72.60% | 36     | 49.32% | 67.92%       |   |
| African-American | 14                     | 19.18% | 13     | 17.81% | 92.86%       |   |
| Hispanic         | 6                      | 8.22%  | 3      | 4.11%  | 50.00%       | 53.85% vs. African-Americans<br>73.61% vs. Caucasians<br>(FAIL) |
| TOTAL            | 73                     |        | 52     |        | STEEL STEEL  |   |

Because Hispanics passed the exam at a rate of less than 80% when compared to the pass rate of African-Americans, the Captain's exam had a disparate impact on me and other Hispanics based on our race.

Two rounds of promotions have occurred off of the list to date. Respondent promoted six (6) individuals to Captain on or about May 4, 2018, and then promoted another eight (8) individuals on or about July 28, 2018. The selections to date also demonstrate an adverse impact against Hispanics:

| RACE             | PROMOTIONS | SELECTION | FOUR-FIFTHS<br>RULE TEST |
|------------------|------------|-----------|--------------------------|
| Caucasian        | 8          | 15.09%    |                          |
| African-American | 6          | 42.86%    |                          |
| Hispanic         | 0          | 0.00%     | 0.00% (FAIL)             |
| TOTAL            | 14         |           |                          |

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Respondent has expressed a desire to increase minority representation in the officer rankings within the Division of Fire. I believe that Respondent unlawfully administered the promotional examination in a manner that would achieve its desired result of having a list of disproportionately high-ranked African-American candidates to select for promotion over the two-year duration that the promotional list will be viable.

I believe that I, along with others who are similarly situated, have been discriminated against in violation of Title VII of the Civil Rights Act of 1964, as amended. This discrimination is a result of disparate impact and/or intentional discrimination in the administration of the Captain's promotional exam.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)

19/11/18 - G/ D. L.